

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 02-80586

Honorable Patrick J. Duggan

FRANK BRASZA,

Defendant.

ORDER DENYING DEFENDANT'S MOTION
TO REDUCE HIS SENTENCE PURSUANT TO RULE 35
OF THE FEDERAL RULES OF CRIMINAL PROCEDURE

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on November 8, 2005.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

On June 21, 2004, Defendant pled guilty to one count of conspiracy to commit racketeering, in violation of 18 U.S.C. § 1962(d). This Court sentenced Defendant to imprisonment for one year and one day on May 17, 2005. Presently before the Court is Defendant's "Motion to Reduce Sentence Via Rule 35 [of the Federal Rules of Criminal Procedure]," filed September 22, 2005.

Rule 35(a) provides that, "[w]ithin 7 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error." FED. R. CRIM. P. 35(a). Defendant filed his motion outside this seven day period; in any event, he does not assert an "arithmetical, technical, or other clear error" to support his motion. Rule 35

otherwise only provides for a correction or reduction of a sentence “[u]pon the government’s motion . . .” FED. R. CRIM. P. 35(b). The Government has responded to Defendant’s motion, stating that it is not moving for a reduction of sentence. Defendant therefore is not entitled to a reduction of his sentence based on Rule 35.

On November 4, 2005, Defendant filed an “Administrative Petition” in which he now states that he is not seeking a reduction in his sentence pursuant to Rule 35. Defendant, however, cites no other authority granting this Court the power to modify his sentence at this juncture based on the reasons set forth in his motion.¹

Therefore Defendant’s motion to reduce sentence is **DENIED**.

SO ORDERED.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:
John C. Engstrom
Frank S. Brasza
Thomas W. Cranmer

¹To the extent that Defendant is seeking relief from the Bureau of Prisons, Defendant’s petition should not be submitted to the Court. The Court has no authority to direct the Bureau of Prisons as to how a sentence should be carried out.